

OPINION
50-95

October 24, 1950 (OPINION)

LABOR

RE: City Has No Authority to Fix Age Limits for Civil Service Positi

Your letter of the twenty-third inst. requesting a clarification of chapter 40-44 N.D.R.C. has been received and referred to my desk.

You state that a certain city in North Dakota, which has adopted the civil service plan authorized by said chapter, "has set an age limit span for men taking civil service examinations for plumbing inspector between the ages of 26 and 45 years." You say that you would like an opinion from this office as to whether or not the enabling act or other statutes pertaining to the subject matter of civil service permits a city to set age limits as above noted.

An examination of said chapter, which is the law authorizing civil service regulations in cities, discloses no specific authority to fix age limits for candidates for appointment to city offices. Therefore, there is no definite provision of law authorizing the fixing of age limits as provided by the city involved. The statute must necessarily leave the making of rules relating to civil service examinations to the city council or the city commission. However, such rules must be reasonable and must not deprive any citizen of a valuable right.

To say that a man 25 years of age or one over the age of 45, otherwise qualified by knowledge and experience, could not take a civil service examination for a certain appointive position simply because of his age would be at least of very questionable validity in our opinion.

ELMO T. CHRISTIANSON

Attorney General